

AMENDED IN ASSEMBLY JUNE 23, 2009

AMENDED IN SENATE MAY 6, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 364

Introduced by Senator Florez

February 25, 2009

An act to add Section 1285.5 to the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 364, as amended, Florez. Health facilities: cancer centers.

Under existing law, the State Department of Public Health is responsible for licensing and regulating health facilities, including general acute care hospitals. Violation of these provisions is a crime.

This bill would prohibit an officer, director, or member of a governing board of a general acute care hospital that is designated by the National Cancer Institute as a comprehensive cancer center and that accepts state funds from holding a position as an officer, director, or member of a governing board of a corporation that either manufactures or sells tobacco products, as defined, or that has, within the past 5 years, violated or been fined for violating federal or state controlled substances laws or regulations, *or from holding a position as an officer, director, member of the board, or similar position for a biopharmaceutical company that focuses on the discovery, development, and commercialization of therapeutic products for specified diseases*. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Cancer research and treatment ensures the development of
4 cures for many life-threatening diseases.

5 (b) Consumption of tobacco products, particularly by minors,
6 is a leading cause of cancer.

7 (c) California, through the Medi-Cal program, provides several
8 millions of dollars each year for cancer treatment and research to
9 general acute care hospitals that are designated by the National
10 Cancer Institute as comprehensive cancer centers.

11 (d) California advocates, as a matter of public policy, reduction
12 in overall tobacco consumption and prohibits tobacco consumption
13 near public thoroughfares.

14 (e) General acute care hospitals that are designated as
15 comprehensive cancer centers also take steps to educate the public
16 about the dangers of tobacco use.

17 (f) It is misleading for a general acute care hospital that is
18 designated as a comprehensive cancer center and that is provided
19 resources by the state to employ officers and directors who profit
20 from the sale and distribution of tobacco products.

21 (g) A general acute care hospital that is designated as a
22 comprehensive cancer center and that is provided resources by the
23 state should seek to ensure that its directors and officers do not
24 profit from the consumption of tobacco products ~~and that its~~
25 ~~directors and officers do not render services to corporations that~~
26 ~~have violated federal or state laws., do not render services to~~
27 *corporations that have violated federal or state laws, and do not*
28 *engage in work that could affect the hospital's requirement to*
29 *provide unbiased research and review of the efficacy of new drugs*
30 *or therapeutic products for diseases such as diabetes and cancer.*

SEC. 2. Section 1285.5 is added to the Health and Safety Code, to read:

1285.5. An officer, director, or member of a governing board of a general acute care hospital that is designated by the National Cancer Institute as a comprehensive cancer center to conduct cancer research and treatment and that accepts state funds shall not hold a position as either of the following:

(a) (1) An officer, director, or member of the board, or a similar position of a corporation that manufactures or sells tobacco products.

(2) For purposes of paragraph (1), “a corporation that manufactures or sells tobacco products” means a corporation or other entity that owns or operates any of the following:

(A) One or more clinics or health facilities licensed pursuant to this division that derive revenue from tobacco products. *to this division.*

(B) One or more pharmacies licensed pursuant to Chapter 9 (commencing with Section ~~400~~ 4000) of Division 2 of the Business and Professions Code that derive revenue from tobacco products.

(C) Any ~~other~~ entity that derives more than 1 percent of its annual revenue from tobacco products.

(b) An officer, director, or member of the board, or a similar position of a corporation that has, within the past five years, violated federal or state controlled substances laws or ~~regulations or been fined for violating controlled substances laws or regulations.~~

(c) An officer, director, member of the board, or similar position for a biopharmaceutical company that focuses on the discovery, development, and commercialization of therapeutic products for diseases such as diabetes and cancer.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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